

**ADVANCE COPY- Civil Service Commission Regulations under Executive Order 10,000.**

**TITLE 5 - ADMINISTRATIVE PERSONNEL**

**CHAPTER III - FOREIGN AND TERRITORIAL COMPENSATION**

**SUBCHAPTER C - CIVIL SERVICE COMMISSION**

**PART 350 - TERRITORIAL POST DIFFERENTIALS AND TERRITORIAL  
COST-OF-LIVING ALLOWANCES**

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**AUTHORITY:** 350.1 to 350.13, issued under sec. 207, Pub. Law 491, 80th Cong., as amended by sec. 104, Pub. Law 862, 80th Cong., Part II, E. O. 10,000, dated Sept. 16, 1948, 13 F. R. 5453.

**350.1 Definitions.** As used in this subchapter, the following terms have the meanings stated:

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(a) "Section 207 of the act" means section 207 of the Independent Offices Appropriation Act, 1949, approved April 20, 1948 (Public Law 491, 80th Congress), as amended by section 104 of the Supplemental Independent Offices Appropriation Act, 1949, approved June 30, 1948 (Public Law 862, 80th Congress).

(b) "Rate of basic compensation" means the rate of compensation fixed by law for the position held by an individual, before any deductions and exclusive of additional compensation of any kind, such as overtime pay, night differential, or allowances.

(c) "Territories" means Alaska, Hawaii, the possessions of the United States, the Trust Territory of the Pacific Islands, and such additional areas located outside the continental United States as the Secretary of State shall designate as being within the scope of the provisions of Part II of Executive Order 10,000, as listed in Part 328 of this chapter.

(d) "Territorial post differential" is additional compensation payable, under authority of section 207 of the act, at territorial posts having conditions of environment which differ substantially from conditions of environment in the States and warrant additional compensation as a recruitment incentive.

(e) "Territorial cost-of-living allowance" is additional compensation payable, under authority of section 207 of the act, at territorial posts where living costs are substantially higher than in the District of Columbia.

(f) "On assignment" or "on transfer" at a post of duty means officially occupying a position located at the post, geographically and organizationally, and having official headquarters at the post for travel and other administrative purposes.

(g) "On detail" at a post of duty means performing temporarily, at a post other than the post of regular assignment, duties which involve carrying out

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functions of the post to which detailed. An employee is not "on detail" to a post if he is there temporarily, in a travel status, performing duties in connection with the duties of his regular position at another post.

(h) "Contract" means a legally binding document specifying, for an employee whose rate of basic compensation is fixed by statute, the compensation to be paid during his employment outside the continental United States or in Alaska. An employment agreement which does not include terms controlling payment of compensation due to service outside the continental United States or in Alaska is not a contract as here defined.

**550.2 Employees and agencies covered.** Section 207 of the act, part II of Executive Order 10,000, and the regulations in this part apply to civilian employees of the United States Government whose rates of basic compensation are fixed by statute. They do not apply to employees in the Panama Canal Zone whose rates of basic compensation are fixed by statute, or to any other such groups of employees for whom additional compensation or salary differentials for service outside the continental United States or in Alaska are otherwise specifically authorized by law. Subject to the provisions of section 207 of the act, part II of Executive Order 10,000, and the regulations in this part, every Executive department, independent establishment, and wholly owned Government corporation shall pay (a) a territorial post differential to each of its employees whose rate of basic compensation is fixed by statute, who is located at a place for which a territorial post differential has been established, and who is otherwise eligible to receive such payments, and (b) a territorial cost-of-living allowance to each of its employees whose rate of basic compensation is fixed by statute, who is located at a place for which a territorial cost-of-living allowance has been established, and who is otherwise eligible to receive such payments.

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**350.3 Exclusion of certain employees.** No territorial post differential or territorial cost-of-living allowance shall be paid to Governors of Territories as defined in the regulations in this part; to Foreign Service officers and Foreign Service Reserve officers under the Department of State; or, during the period of his contract, to any employee serving under a contract, as defined in 350.1 (h), on the effective date of the regulations in this part. Any employee serving under a contract shall be compensated according to the terms of such contract for the period thereof.

**350.4 Areas covered.** The following areas are Territories which are subject to the regulations in this part.

Alaska (including all the Aleutian Islands east of longitude 167 degrees east of Greenwich)

Hawaii (including Ocean or Kure Island and Palmyra Island)

Puerto Rico

Virgin Islands of the United States

American Samoa (including the island of Tutila, the Manua Islands, and all other islands of the Samoan group east of longitude 171 degrees west of Greenwich, together with Swains Island)

Guam

Kingman Reef

Johnston or Cornwallis Island, and Sand Island

Midway Islands

Wake Island

Howland, Baker, and Jarvis Islands

Navassa Island

St. John Islands

Canton and Enderbury Islands

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The Trust Territory of the Pacific Islands (which comprises the Caroline, Marshall, and Mariana Islands, except Guam)

Any small guano islands, rocks, or keys which, in pursuance of action taken under the Act of Congress, August 18, 1858, are considered as appertaining to the United States.

Any other islands to which the United States Government reserves claim, such as Christmas Island.

350.5 Eligibility for territorial post differential. (a) In order that an employee be eligible to receive a territorial post differential, (1) he shall be a citizen or national of the United States, (2) his residence in the area to which the territorial post differential applies, at the time of receipt thereof, shall be fairly attributable to his employment by the United States, and (3) his residence in such area over an appropriate prior period of time must not be fairly attributable to reasons other than employment by the United States or by United States firms, interests, or organizations.

(b) Subject to the provisions of paragraph (a) of this section, the classes of persons eligible to receive territorial post differentials include but are not limited to:

(1) Persons recruited or transferred from outside the area to which the territorial post differential concerned is applicable, except that the department or agency concerned shall exclude from those eligible to receive a territorial post differential the spouse of an individual who is stationed, employed, or resident in such differential area when the department or agency determines that the spouse is there primarily to be near such individual.

(2) Persons employed in the area to which the territorial post differential concerned is applicable but (i) who were originally recruited from outside such

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area and have been in substantially continuous employment by other Federal agencies, contractors of Federal Agencies, or international organizations in which the United States Government participates, and whose conditions of employment provide for their return transportation to places outside the territorial post differential area concerned, or (ii) who were at the time of employment temporarily present in the territorial post differential area concerned for purposes of travel or formal study and maintained residence outside such area during the period so present.

(5) Persons who are not normally residents of the area to which the territorial post differential concerned is applicable and who are discharged from the military service of the United States in such area to accept employment therein with an agency of the Federal Government.

(c) Eligibility to receive a territorial post differential of any person not included in a class enumerated in paragraph (b) of this section is to be determined by the department or agency concerned in accordance with the provisions of paragraph (a) of this section.

350.6 Payment of territorial post differentials and territorial cost-of-living allowances. (a) Additional compensation paid under authority of section 207 of the act shall not exceed in any instance 25 percent of the rate of basic compensation.

(b) Payments of territorial post differentials and territorial cost-of-living allowances shall begin as of the date of arrival at the post of duty on assignment, transfer, or detail, and shall stop as of the close of business on the date of departure from the post of duty for separation, transfer, or detail, except that in the case of local recruitment such payments shall begin and stop as of the beginning and end of employment.

(c) Payments to persons serving on a part-time basis shall be prorated to cover only those periods of time for which such persons receive basic compensation.

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(d) Payment shall be made for all periods of sick leave and annual leave taken during the period covered by paragraph (b) of this section and for transit time authorized for purposes of leave so taken.

(e) Payment shall not be made for any time for which an employee does not receive basic compensation.

(f) Neither a territorial post differential nor a territorial cost-of-living allowance shall be included in the base used in computing overtime pay, night differential, holiday pay, retirement deductions, or any other additional compensation, allowance, or pay differential.

(g) Payment of a territorial post differential or territorial cost-of-living allowance shall not be construed to be an "equivalent increase" in compensation within the meaning of section 7(b) (1) of the Classification Act of 1925, as amended.

(h) Payments of territorial post differentials and territorial cost-of-living allowances represent "additional compensation properly includible in the gross income of the recipient for Federal income tax purposes". (Letter of Commissioner of Internal Revenue to Bureau of the Budget, August 26, 1946).

350.7 Coordination of territorial post differentials and territorial cost-of-living allowances. At any place for which both a territorial post differential and a territorial cost-of-living allowance have been established, each employee eligible to receive a territorial cost-of-living allowance shall receive the full territorial cost-of-living allowance otherwise payable to him under the regulations in this part. Any such employee who receives a territorial cost-of-living allowance which is less than 25 per cent of his rate of basic compensation shall receive, in addition, any territorial post differential otherwise payable to him under these regulations, but only at such rate that his total additional compensation under the regulations in this part (including territorial cost-of-living allowance and territorial post

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differential) will not exceed 25 per cent of his rate of basic compensation.

**350.8 Periodic review.** The Commission will from time to time, but at least annually, review the places designated, the rates fixed, and the regulations in this part, which are prescribed for payment of territorial post differentials and territorial cost-of-living allowances, with a view to making such changes therein as will insure that payment of such additional compensation shall continue only during the continuance of conditions justifying such payment and shall not in any instance exceed the amount justified.

**350.9 Establishment of rates for additional places.** Requests for the establishment of rates of territorial post differentials or territorial cost-of-living allowances for places for which such differentials or allowances have not been established by the regulations in this part should be submitted in writing to the Commission by the departments or agencies concerned.

**350.10 Places and rates at which territorial post differentials shall be paid.** In accordance with the provisions of section 207 of the act and section 202 of Executive Order 10,000, and based on (a) extraordinarily difficult living conditions, (b) excessive physical hardship, or (c) notably unhealthful conditions, territorial post differentials are established at the following places and rates:

American Samoa (including the	
island of Tutuila, the Manua Islands, and all other	
islands of the Samoan group east of longitude	
171 degrees west of Greenwich, together with	
Swains Island)	----- 25 per cent of rate of basic compensation
Guam - - - - -	25 per cent of rate of basic compensation
Johnston or Cornwallis Island,	
and Sand Island - - - - -	25 " " " " " "



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Midway Islands - - - - -	25	per cent of rate of basic compensation
Wake Island - - - - -	25	" " " " " "
Swan Islands - - - - -	25	" " " " " "
Palmyra Island - - - - -	25	" " " " " "
Canton Island - - - - -	25	" " " " " "

**The Trust Territory of the Pacific**

Islands (which comprises the Caroline,

Marshall, and Mariana Islands,

except Guam) - - - - - 25 " " " " " "

**350.11 Places and rates at which territorial cost-of-living allowances**

shall be paid. In accordance with the provisions of Section 207 of the act and section 206 of the Executive Order 10,000, and in consideration of relative consumer price levels in the area and in the District of Columbia, and differences in goods and services available and the manner of living of persons employed in the area concerned in positions comparable to those of United States employees in the area territorial cost-of-living allowances are established at the following places and rates:

Alaska (including all the Aleutian Islands east

of longitude 167 degrees east of

Greenwich) - - - - - 25 per cent of rate of basic compensation.

Hawaii (excluding Ocean or Kure Island

and Palmyra Island)- - - - - 25 " " " " " "

Puerto Rico and Virgin Islands of

the United States - - - - - 25 " " " " " "

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20.12 Deductions from territorial cost-of-living allowances. In accordance with the provisions of section 205 (b) (2) of Executive Order 10,000, deductions from territorial cost-of-living allowances of the following classes of employees shall be made at the following places and rates:

None

20.13 Inquiries. Inquiries concerning the regulations in this part may be directed to the Field Section, Personnel Classification Division, Washington, D. C., telephone extension 651.

The regulations in this part shall be effective as of the close of business on January 1, 1949, or at the beginning of the pay period which includes January 1, 1949, or on any intermediate date between these two, as elected by each department or agency.

Approved December 21, 1948